the method that the legislature may adopt as a means of measuring the tax. *Home Insurance Co.* v. *New York,* 134 U. S. 594. But the tax must be taken by due process of law and must not become a burden on interstate commerce. The court in the principal case admits that the state had authority and power to lay the franchise tax and the authority to control the business within the state of the foreign corporation and the right to tax the intrastate business of such corporation carried on as a result of permission to come in. But though the state has such power it must be exercised so as not to be inconsistent with the Constitution of the United States because the power of the state legislature is not paramount but subordinate to the U. S. Constitution. The court hastily disposes of the cases cited by counsel contending that the statutes are not repugnant to the Constitution of the United States; *Baltic Mining Co.* v. *Mass.,* 231 U. S. 68; *St. Louis Southwestern Ry.* v. *Arkansas,* 235 U. S. 350; *Kansas City, Memphis Ry.* v. *Botkin,* 240 U. S. 227, by merely saying "the cases relied upon contain nothing expressly purporting to overrule the previous cases, but on the contrary in explicit terms declared that they did not conflict with them and that they proceeded upon conditions peculiar to the particular cases". The court bases its decision upon the substance of the tax, the particular provisions contained therein, the subject matter and the amount. The tax must be of such a character and of such an amount as not to be a burden upon the corporation's interstate commerce. *Williams* v. *Talladega,* 226 U. S. 404. The instant case shows clearly that the state can impose a tax—by whatever name it chooses to call it—on a foreign corporation for the privilege of doing intrastate business and that such a tax can be measured by the corporation's entire wealth, be it situated wherever it may, but the amount must not be such as to burden the corporation's interstate business.

CRIMINAL LAW—SELF-INCRIMINATION—CONSTITUTIONAL PROVISIONS—EVIDENCE.—On the morning after a barn had been burned the sheriff traced footprints from the barn to a point near defendants' residence, and then compelled the defendants to walk back with him beside the trail and to remove their shoes in order that he might compare them with the footprints found. Defendants were not under arrest, and the sheriff was not acting under judicial process of any kind. *Held,* that the sheriff's testimony as to measurement and comparison of tracks thus obtained was admissible and that its introduction did not violate the constitutional provision against self-incrimination. *State* v. *Barela* (N. Mex., 1917), 168 Pac. 545.

The general rule has long been settled that the admissibility of evidence is not affected by the manner in which the evidence was obtained. 4 WIGMORE ON EVIDENCE, sec. 2183; *Rex* v. *Granatelli,* 7 St. Tr., N. S. 979; *State* v. *Fuller,* 34 Mont. 12. The constitutional provisions against unlawful searches and seizures and against compulsory self-incrimination are limitations upon this general rule. As to just what is the scope of these limitations the authorities are in confusion. The great weight of authority, however, seems to support the decision in the instant case, which places the test of admissibility upon "whether the evidence is compulsorily given by the

defendant under process as a witness". For a discussion of cases involving the guaranty against unlawful searches and seizures, see 15 MICH. L. REV. 65. The cases involving only the limitation against self-incrimination are numerous. Several involve the situation in which the defendant was forced by one not acting under judicial process to remove his shoes for the purpose of comparison with tracks, and the evidence thereby gained was held admissible. *People* v. *Van Wormer,* 175 N. Y. 188; *State* v. *Fuller, supra; State* v. *Arthur,* 129 Ia. 235 (But the court assumed that the accused, in jail, voluntarily gave up his shoes to the sheriff); *Krens* v. *State,* 75 Neb. 294; *Magee* v. *State,* 92 Miss. 865 (in which the accused was compelled to put his foot in a track for the purpose of identification). *Contra: Day* v. *State,* 63 Ga. 667; *Evans* v. *State,* 106 Ga. 519. And if the accused takes off his shoes for inspection or does some similar act or gives testimony against himself without compulsion or threats, the evidence is doubtless admissible, since he is then deemed to have waived the benefit of the limitation. *Moss* v. *State* (Ala.), 40 So. 340; *State* v. *Taylor,* 202 Mo. 1; *State* v. *Fuller, supra.* There is also some authority for the view that if the defendant is compelled by legal process to remove his shoes for the purpose of comparison, the evidence is admissible. *State* v. *Graham,* 74 N. C. 646; *Walker* v. *State,* 7 Tex. App. 245. The reason governing the prevailing view that testimony secured by such means as in the instant case is not rendered inadmissible by the provision against self-incrimination is that such testimony is the testimony of the physical facts and not that of the accused himself. *State* v. *Thompson,* 161 N. C. 238; *Holt* v. *United States,* 218 U. S. 245.

DIVORCE—EFFECT—TENANCY BY ENTIRETIES.—Complainant filed a bill for partition of real estate which had been held by himself and wife as tenants by the entireties. The defendant, the divorced wife of the complainant, contended that such a tenancy cannot be partitioned. *Held,* that a decree of divorce severs the interest of such tenants and they become tenants in common or joint tenants, according to the statutes of the state in which the land is located. *Sbarbaro* v. *Sbarbaro,* (N. J., 1917), 102 Atl. 256.

Only two authorities are cited against the rule thus promulgated namely, *In re Lewis,* 85 Mich. 340, and *Alles* v. *Lyon,* 216 Pa. St. 604, and of these the effect of the decision in Michigan has been nullified by Sec. 11, 437 MICH. COMP. LAWS, 1915, providing that divorce changes a tenancy by entireties to one in common unless otherwise provided in the decree. The Pennsylvania decision still stands, unaffected by legislation, and expressly followed, as late as 1912, in *Hilt* v. *Hilt,* 50 Pa. Super. Ct. 455. The result in the principal case is attained on the theory that entirety holdings rest on the fiction of unity of person, and when this is destroyed, its incidents must of necessity fail. Additional support is adduced—*e converso*—from a statement in Coke, Litt. 187b: "If an estate be made to a man and woman and their heirs, before marriage, and after they marry, the husband and wife have moieties between them." With the exceptions noted, the instant decision is in harmony with that of courts in other jurisdictions where the same question has arisen. Though a wife pay out of her personal estate for land conveyed to